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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,415	11/07/2001	Mitchell D. Eggers	GENV-004/00US-2007	9374
58249 7590 03/04/2008 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001			EXAMINER HARRELL, ROBERT B	
			ART UNIT 2142	PAPER NUMBER
			MAIL DATE 03/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/005,415

Applicant(s)

EGGERS, MITCHELL D.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see attached Office Action</u> . |

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1. Claims 1-64 remain for examination.
2. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim (e.g., see claim 12 "said sample" [which one])). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
3. The non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993), In re Berg 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998), 195 F.3d 1322, 1326, 52 USPQ2d (Fed. Cir. 1999), Eli Lilly CAFC on petition for rehearing En Banc (58 USPQ2d 1869).
4. A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321 (c) may be used to overcome an actual or provisional rejection based on a non statutory based double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 C.F.R. 3.73(b).
5. Claims 1-64 of this United States Application, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of United States Patent 7,142,987. Although the conflicting claims are not identical, they are not patentably distinct from each other because the United States Patent 7,142,987 claims encompasses the claims of this United States Application by the removal of a client over a network which this current United States Patent Application contains and is thus therein residing within the scope of United States Patent 7,142,987.
6. Claims 1-64 of this United States Application, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-40 and 58-69 of United States Patent Application 10/007,355. Although the conflicting claims are not identical, they are not patentably distinct from each other because the 10/007,355 application claims encompasses the claims of this United States Application by the removal of a client over a network which this current United States Patent Application contains and is thus therein residing within the scope of United States Patent 10/007,355 application claims.

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7. **Claims 1-64 of this United States Application, are rejected under the judicially created doctrine of obviousness-type double patenting** as being unpatentable over claims 1-64 and 86-117 of United States Patent Application 10/150,771. Although the conflicting claims are not identical, they are not patentably distinct from each other because the 10/150,771 application claims encompasses the claims of this United States Application by the removal of a client over a network which this current United States Patent Application contains and is thus therein residing within the scope of United States Patent 10/150,771 application claims.

8. **Claims 1-64 of this United States Application, are rejected under the judicially created doctrine of obviousness-type double patenting** as being unpatentable over claims 1, 2, 4-11, 13-16, 35-42, and 44-51 of United States Patent Application 10/252,352. Although the conflicting claims are not identical, they are not patentably distinct from each other because the 10/252,352 application claims encompasses the claims of this United States Application by the removal of a client over a network which this current United States Patent Application contains and is thus therein residing within the scope of United States Patent 10/252,352 application claims.

9. The rejection, and grounds for rejection under the judicially created doctrine of obviousness-type double patenting as presented in examiner's prior Office Action, mailed 15 February 2006, 28 August 2006, and 21 September 2007 are each hereby maintained and incorporated in this Office Action by reference as indicated above. The only remarks, by the applicant in his 12 December 2007, on the above cited rejection was that the applicants (it is seen that there is only one applicant of record) note that claims are all rejected under judicially created doctrine of obviousness-type double patenting. The applicant[s] will file Terminal Disclaimers as appropriate upon indication that the claims include allowable matter. **However**, until such Terminal Disclaimers are filed, these rejections and grounds for rejections will continue and be incorporated by reference in this and any other subsequent Office Action either directly by those subsequent Office Action or by reference into those subsequent Office Action by this Office Action; and, thus there is no allowable subject matter since there are pending rejections.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Thursday from 5:30 am to 2:00 pm.

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13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached on (571) 272-3868. The fax phone number for all papers is (571) 273-8300.

14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142